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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/533,287	11/16/2005	Kazuhiro Matsuda	SATO 117NP	6032
23995	7590	03/08/2007		
RABIN & Berdo, PC 1101 14TH STREET, NW SUITE 500 WASHINGTON, DC 20005			EXAMINER BATTULA, PRADEEP CHOUDARY	
			ART UNIT	PAPER NUMBER
			3722	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		03/08/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/533,287

Applicant(s)

MATSUDA, KAZUHIRO

Examiner

Pradeep C. Battula

Art Unit

3722

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 November 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 1-3 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 April 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

The disclosure is objected to because of the following informalities: On Page 4, Paragraph 3, Lines 2 – 4 regarding the magnet, seal or electrostatic function. The written description is unclear to the Examiner, possibly because of translation, and the Examiner understands that the attachment to the calendar can either be magnetically or electrostatically detachably attached. In regards to the seal the examiner understands this as any item that can be removed considering what is supposed to contain.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim3 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is unclear to the Examiner on whether the material being written on is in itself magnetic or other materials can be used.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and

Art Unit: 3722

the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1 and 2 rejected under 35 U.S.C. 103(a) as being unpatentable over Hamburger et al. (Hamburger; U.S. 696,098) in view of Harrison (U.S. Des. 252,212).

In regards to Claim 1, Hamburger discloses a method for manufacturing a calendar comprising the steps of: forming five sheets a divided weekly b by placing day numbers vertically or horizontally (Figure 1) on a basis of seven days where a month is standardized as having thirty one days (Column 1, Lines 25 – 30; Figure 1, Items a, b); forming a blank section (Figure 1) and an indication supplemental tool such as an attached seal corresponding to the month and seven days of the week (Figure 1, Items “October 13 – 19”, “41: week”). The examiner considers printed indicia an attachment.

Harrison teaches of blank perpetual calendar with multiples blank boxes of varying sizes. It would have been obvious to a person having ordinary skill in the art at the time the invention was made to use the teachings of Harrison’s blank boxes and incorporate them to Hamburger’s invention in order to create a perpetual calendar (Harrison).

With respect to forming a blank section for indicating month and days of the week at a left end or upper end of the sheet of the first week; and placing the day numbers of first to seventh on the sheet of the first week, day numbers of eighth to fourteenth on the sheet of the second week, day numbers of fifteenth to twenty first on the sheet of the third week, day numbers of twenty second to twenty eighth on the sheet of the fourth week, and day numbers of twenty ninth to thirty first on the sheet of the fifth week;

Hamburger modified by Harrison disclose the claimed invention except for the specific arrangement and/or content of indicia (date numbers) set forth in the claim(s). It has been held that when the claimed printed matter is not functionally related to the substrate it will not distinguish the invention from the prior art in terms of patentability. *In re Gulack*, 217 USPQ 401, (CAFC 1983). The fact that the content of the printed matter placed on the substrate may render the device more convenient by providing an individual with a specific type of calendar does not alter the functional relationship. Mere support by the substrate for the printed matter is not the kind of functional relationship necessary for patentability.

The examiner asserts that the multiple sheets and blank columns comprising indicia is the same structure claimed by applicant and the sole difference is in the content of the printed material. Thus, there is no novel and unobvious functional relationship between the printed matter (calendar indicia) and the substrate (leaves) which is required for patentability.

Accordingly, there being no functional relationship of the printed material to the substrate, as noted above, there is no reason to give patentable weight to the content of the printed matter which, by itself, is non-statutory subject matter.

Furthermore, in using Hamburger modified by Harrison one must incorporate date numbers and the month therefore in light of *In re Gulack* it is not unobvious to use the date number printings of Hamburger and write in the days on the different leaves. This is a simple arrangement of indicia.

In regards to Claim 2, Hamburger discloses forming a table on one sheet b in which day numbers are placed vertically or horizontally on a basis of seven days (Figure 1) where a month is standardized as having thirty one days (Column 1, Lines 25 – 30; Figure 1, Items a, b, “31 days”). Hamburger further discloses forming a blank section (Figure 1) and providing a supplemental tool such as an attached seal corresponding to the month and seven days of the week (Figure 1, Items “October 13 – 19”, “41: week”). The examiner considers printed indicia an attachment.

Harrison teaches of blank perpetual calendar with a table having multiples blank boxes of varying sizes. It would have been obvious to a person having ordinary skill in the art at the time the invention was made to use the teachings of Harrison’s blank boxes and incorporate them to Hamburger’s invention in order to create a perpetual calendar (Harrison).

With respect to forming a blank section for indicating month and days of the week at a left end or upper end of the table placing the day numbers of first to seventh on the table of the first week, day numbers of eighth to fourteenth on the table of the second week, day numbers of fifteenth to twenty first on the table of the third week, day numbers of twenty second to twenty eighth on the table of the fourth week, and day numbers of twenty ninth to thirty first on the table of the fifth week, where the first to fifth weeks are arranged from the left or from the top; Hamburger modified by Harrison disclose the claimed invention except for the specific arrangement and/or content of indicia (date numbers) set forth in the claim(s). It has been held that when the claimed printed matter is not functionally related to the substrate it will not distinguish the

invention from the prior art in terms of patentability. *In re Gulack*, 217 USPQ 401, (CAFC 1983). The fact that the content of the printed matter placed on the substrate may render the device more convenient by providing an individual with a specific type of calendar does not alter the functional relationship. Mere support by the substrate for the printed matter is not the kind of functional relationship necessary for patentability.

The examiner asserts that the multiple sheets and blank columns comprising indicia is the same structure claimed by applicant and the sole difference is in the content of the printed material. Thus, there is no novel and unobvious functional relationship between the printed matter (calendar indicia) and the substrate (leaves) which is required for patentability.

Accordingly, there being no functional relationship of the printed material to the substrate, as noted above, there is no reason to give patentable weight to the content of the printed matter which, by itself, is non-statutory subject matter.

Furthermore, in using Hamburger modified by Harrison one must incorporate date numbers and the month therefore in light of *In re Gulack* it is not unobvious to use the date number printings of Hamburger and write in the days on the different leaves. This is a simple arrangement of indicia.

2. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Selman (U.S. 4,852,282) in view of Hamburger and Malino (U.S. 5,799,423).

Selman discloses method for manufacturing a calendar comprising the steps of: preparing a table 26 on a white board 28 made of a magnetic material 14 on which any

information can be written and erased with a specific pen 64 and an eraser (Column 3, Lines 2 – 4, 32 – 39).

Selman does not disclose forming the table in which day numbers are placed vertically or horizontally on a basis of seven days where a month is standardized as having thirty one days; forming a blank section for indicating month and days of the week at a left end or upper end of the table; and placing the day numbers of first to seventh on the table of the first week, day numbers of eighth to fourteenth on the table of the second week, day numbers of fifteenth to twenty first on the table of the third week, day numbers of twenty second to twenty eighth on the table of the fourth week, and day numbers of twenty ninth to thirty first on the table of the fifth week, where the first to fifth weeks are arranged from the left or from the top, whereby a user is freely able to decide when the board is used, upon placing a supplemental tool utilizing such as magnet, seal, electrostatic for indication of the month and seven days of the week as detachably attached on the prescribed blank section to correspond to the portion of the day numbers.

Hamburger discloses forming the table in which day numbers are placed vertically or horizontally (Figure 1) on a basis of seven days where a month is standardized as having thirty one days (Column 1, Lines 25 – 30; Figure 1, Items a, b); forming a blank section (Figure 1). Therefore it would have been obvious to a person having ordinary skill in the art at the time the invention was made to use the indicia of Hamburger in place of Selman's in order to identify a day and date.

Selman modified by Hamburger does not disclose placing a supplemental tool utilizing such as magnet, seal, electrostatic for indication of the month and seven days of the week as detachably attached on the prescribed blank section to correspond to the portion of the day numbers.

Molina discloses using magnets 32 for identifying holidays, days, dates, and month (Column 3, Lines 31 – 44; Figure 3, Item 32), therefore it would have been obvious to a person having ordinary skill in the art at the time the invention was made to use Molina's magnets in order to create a calendar that can either be fully filled with magnets or by written indicia.

Furthermore with respect to forming a blank section for indicating month and days of the week at a left end or upper end of the table; and placing the day numbers of first to seventh on the table of the first week, day numbers of eighth to fourteenth on the table of the second week, day numbers of fifteenth to twenty first on the table of the third week, day numbers of twenty second to twenty eighth on the table of the fourth week, and day numbers of twenty ninth to thirty first on the table of the fifth week, where the first to fifth weeks are arranged from the left or from the top; Selman modified by Hamburger and Molina discloses the claimed invention except for the specific arrangement and/or content of indicia (date numbers) set forth in the claim(s). It has been held that when the claimed printed matter is not functionally related to the substrate it will not distinguish the invention from the prior art in terms of patentability. *In re Gulack*, 217 USPQ 401, (CAFC 1983). The fact that the content of the printed matter placed on the substrate may render the device more convenient by providing an

Art Unit: 3722

individual with a specific type of calendar does not alter the functional relationship. Mere support by the substrate for the printed matter is not the kind of functional relationship necessary for patentability.

The examiner asserts that the multiple sheets and blank columns comprising indicia is the same structure claimed by applicant and the sole difference is in the content of the printed material. Thus, there is no novel and unobvious functional relationship between the printed matter (calendar indicia) and the substrate (leaves) which is required for patentability.

Accordingly, there being no functional relationship of the printed material to the substrate, as noted above, there is no reason to give patentable weight to the content of the printed matter which, by itself, is non-statutory subject matter.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Pradeep C. Battula whose telephone number is 571-272-2142. The examiner can normally be reached on Monday - Thursday 7:00AM - 4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Monica S. Carter can be reached on 571-272-4475. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

PCB
Patent Examiner
March 2, 2006


MONICA CARTER
SUPERVISORY PATENT EXAMINER